



U.S. Department of Justice

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November 5, 2016

Via Email

The Honorable M. Christina Armijo
Chief United States District Judge
United States Courthouse
333 Lomas Blvd. NW
Albuquerque, NM 87102

Re: United States v. Davon Lymon
15-CR-4082 MCA

Your Honor:

The United States respectfully submits this letter to make clear its position on its Motion to Unseal Audio-Visual Trial Exhibits Previously Sealed by October 27, 2016 Sealing Order (Doc. 118) (Motion to Unseal). Doc. 120.

The United States recognizes the constitutional requirements of a free press and public trials, which should be balanced against an individual's rights to a fair trial and the United States' ability to effectively administer justice. As a general matter and in the absence of a Court order prohibiting or limiting disclosure, the United States discloses public record information, including exhibits admitted into evidence during public trials and proceedings to which it is a party, upon request from the media. Government Exhibits 12,¹ 13, 14 and 42 became part of the public record when the Court admitted them into evidence during the public bench trial on Count 4 of the indictment filed in this case.²

¹ Government Exhibit 12 is the audio-visual recording from Officer Daniel Webster's lapel camera. Exhibit 12 is five minutes in duration, but only a portion – the first minute and 35.846 seconds of the recording – was played for the finder of fact during the trial. That portion captured the interaction between Officer Webster and the Defendant from the time Officer Webster approached the Defendant and until the Defendant fired the firearm he was convicted of illegally possessing.

² The jury trial on Counts 1 through 3 of the indictment is scheduled on Jan. 3, 2017. Doc. 122.

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During the upcoming November 7, 2016 hearing on its Motion to Unseal, the United States will ask the Court to accept this letter as an exhibit to its Motion, and will be available to respond to questions the Court may have regarding this matter.

For these reasons and the reasons set forth in its Motion to Unseal, Doc. 120, the United States respectfully requests an Order of this Court unsealing Government Exhibits 12, 13, 14 and 42, whether in whole or in part, or, in the alternative, that the Court withdraw the October 27, 2016 Sealing Order.

Respectfully submitted,

/s/ Damon P. Martinez

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Hon. Hector H. Balderas
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